

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CLARENCE L. HEARNS,

Plaintiff,

v.

CISNERO, et al.,

Defendants.

Case No.: 1:22-cv-01033-JLT-CDB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION FOR PRELIMINARY
INJUNCTION AND TEMPORARY
RESTRAINING ORDER**

(Docs. 3, 13)

Clarence L. Hearn is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Plaintiff seeks injunctive relief restraining SATF “employees, as well as subcontractors and JPay employees” from confiscating “JPay-5 Tablets” and from removing or discontinuing the “JPay wifi and kiosk.” (Doc. 3.) As an initial matter, the assigned magistrate judge found that because the defendants have not been served, “this Court does not have personal jurisdiction over the named defendants and may not act at this time.” (Doc. 13 at 6.) The magistrate judge also addressed the merits of the request, and determined Plaintiff failed to show he was likely to succeed on the merits of his claim, as required for injunctive relief. (*Id.* at 6.) Furthermore, the magistrate judge found “the allegations are speculative, particularly concerning the likelihood of a substantial and immediate irreparable injury.” (*Id.* at 7.) Finally, the magistrate judge noted that

1 “Plaintiff makes no showing whatsoever that the balance of equities tips in his favor, nor does he
2 make any showing that the injunction he seeks is in the public’s interest.” (*Id.*) Therefore, the
3 magistrate judge recommended Plaintiff’s motion for a temporary restraining order and a
4 preliminary injunction be denied on October 13, 2022. (*Id.* at 8.)

5 Plaintiff filed objections to the Findings and Recommendations on November 3, 2022.
6 (Doc. 16.) Plaintiff contends the Court may cure the lack of jurisdiction over the defendants by
7 serving them and setting a hearing. (*Id.* at 4.) Plaintiff also argues the Court should have
8 investigated the facts alleged, and the failure to do so resulted in a “series of missteps” and
9 “amount[ed] to a total miscarriage of justice.” (*Id.*)

10 Significantly, the Court does not have a burden to investigate the claims alleged by
11 Plaintiff. Rather, the burden is on Plaintiff “to demonstrate ‘that he is likely to succeed on the
12 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
13 balance of equities tips in his favor, and that an injunction is in the public interest.’” *Stormans,*
14 *Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (quoting *Winter v. NRDC*, 555 U.S. 7, 20 at
15 2008). Plaintiff failed to carry these burdens, and his objections to not challenge—or otherwise
16 undermine—the findings of the magistrate judge regarding these factors. Further, because the
17 Court has not yet screened the complaint beyond its review for purposes of addressing the request
18 for injunctive relief, the Court declines to serve the defendants at this time.

19 According to 28 U.S.C. § 636(b)(1)(C), the Court conducted a *de novo* review of this case.
20 Having carefully reviewed the file, including Plaintiff’s objections, the Court concludes the
21 Findings and Recommendations are supported by the record and proper analysis. Thus, the Court

22 **ORDERS:**

- 23 1. The Findings and Recommendations issued on October 13, 2022 (Doc. 13) are
24 **ADOPTED** in full.
- 25 2. Plaintiff’s motion for a preliminary injunction and temporary restraining order
26 (Doc. 3) is **DENIED**.

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1 3. This matter is referred to the assigned magistrate judge for further proceedings.

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3 IT IS SO ORDERED.

4 Dated: **November 7, 2022**


UNITED STATES DISTRICT JUDGE